

§ 1.21-1

year” is used in any such section, the normal tax rate for all taxable years beginning after December 31, 1963, and ending before January 1, 1976, shall be considered to be 22 percent.

(e) The computation of the tax on corporations imposed under section 11 may be illustrated by the following example:

Example. The X Corporation, a domestic corporation, has gross income of \$86,000 for the calendar year 1964. The gross income includes interest of \$5,000 on United States obligations for which a deduction under section 242 is allowable in determining taxable income subject to the normal tax. It has other deductions of \$11,000. The tax of the X Corporation under section 11 for the calendar year is \$28,400 (\$15,400 normal tax and \$13,000 surtax) computed as follows:

| COMPUTATION OF NORMAL TAX | | | |
|---|----------|-------|--------|
| Gross income | \$86,000 | | |
| Deductions: | | | |
| Partially tax-exempt interest ... | \$5,000 | | |
| Other | 11,000 | | 16,000 |
| Taxable income | 70,000 | | |
| Normal tax (22 percent of \$70,000) | 15,400 | | |
| COMPUTATION OF SURTAX | | | |
| Taxable income | 70,000 | | |
| Add: Amount of partially tax-exempt interest deducted in computing taxable income | 5,000 | | |
| Taxable income subject to surtax .. | 75,000 | | |
| Less: Exemption from surtax | 25,000 | | |
| Excess of taxable income subject to surtax over exemption | 50,000 | | |
| Surtax (26 percent of \$50,000) | 13,000 | | |

(f) For special rules applicable to foreign corporations engaged in trade or business within the United States, see section 882 and the regulations thereunder. For additional tax on personal holding companies, see part II (section 541 and following), subchapter G, chapter 1 of the Code, and the regulations thereunder. For additional tax on corporations improperly accumulating surplus, see part I (section 531 and following), subchapter G, chapter 1 of the Code, and the regulations thereunder. For treatment of China Trade Act corporations, see sections 941 and 942 and the regulations thereunder. For treatment of Western Hemisphere trade corporations, see sections 921 and 922 and the regulations thereunder. For treatment of capital gains and losses, see subchapter P (section 1201 and following), chapter 1 of the Code. For computation of the tax for a taxable

26 CFR Ch. I (4-1-01 Edition)

year during which a change in the tax rates occurs, see section 21 and the regulations thereunder.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 7293, 38 FR 32792, Nov. 28, 1973; T.D. 74-13, 41 FR 12639, Mar. 26, 1976]

CHANGES IN RATES DURING A TAXABLE YEAR

§ 1.21-1 Changes in rate during a taxable year.

(a) Section 21 applies to all taxpayers, including individuals and corporations. It provides a general rule applicable in any case where (1) any rate of tax imposed by chapter 1 of the Code upon the taxpayer is increased or decreased, or any such tax is repealed, and (2) the taxable year includes the effective date of the change, except where that date is the first day of the taxable year. For example, the normal tax on corporations under section 11(b) was decreased from 30 percent to 22 percent in the case of a taxable year beginning after December 31, 1963. Accordingly, the tax for a taxable year of a corporation beginning on January 1, 1964, would be computed under section 11(b) at the new rate without regard to section 21. However, for any taxable year beginning before January 1, 1964, and ending on or after that date, the tax would be computed under section 21. For additional circumstances under which section 21 is not applicable, see paragraph (k) of this section.

(b) In any case in which section 21 is applicable, a tentative tax shall be computed by applying to the taxable income for the entire taxable year the rate for the period within the taxable year before the effective date of change, and another tentative tax shall be computed by applying to the taxable income for the entire taxable year the rate for the period within the taxable year on or after such effective date. The tax imposed on the taxpayer is the sum of—

(1) An amount which bears the same ratio to the tentative tax computed at the rate applicable to the period within the taxable year before the effective date of the change that the number of days in such period bears to the number of days in the taxable year, and

(2) An amount which bears the same ratio to the tentative tax computed at the rate applicable to the period within the taxable year on and after the effective date of the change that the number of days in such period bears to the number of days in the taxable year.

(c) If the rate of tax is changed for taxable years "beginning after" or "ending after" a certain date, the following day is considered the effective date of the change for purposes of section 21. If the rate is changed for taxable years "beginning on or after" a certain date, that date is considered the effective date of the change for purposes of section 21. This rule may be illustrated by the following examples:

Example 1. Assume that the law provides that a change in a certain rate of tax shall be effective only with respect to taxable years beginning after December 31, 1969. The effective date of change for purposes of section 21 is January 1, 1970, and section 21 must be applied to any taxable year which begins before and ends on or after January 1, 1970.

Example 2. Assume that the law provides that a change in a certain rate of tax shall be applicable only with respect to taxable years ending after December 31, 1970. For purposes of section 21, the effective date of change is January 1, 1971, and section 21 must be applied to any taxable year which begins before and ends on or after January 1, 1971.

Example 3. Assume that the law provides that a change in a certain rate of tax shall be effective only with respect to taxable years beginning on or after January 1, 1971. The effective date of change for purposes of section 21 is January 1, 1971, and section 21 must be applied to any taxable year which begins before and ends on or after January 1, 1971.

(d) If a tax is repealed, the repeal will be treated as a change of rate for purposes of section 21, and the rate for the period after the repeal (for purposes of computing the tentative tax with respect to that period) will be considered zero. For example, the Tax Reform Act of 1969 repealed section 1562, which imposed a 6 percent additional tax on controlled corporations electing multiple surtax exemptions, effective for taxable years beginning after December 31, 1974. For such controlled corporations having taxable years beginning in 1974 and ending in 1975, the rate for the period ending before January 1, 1975,

would be 6 percent; the rate for the period beginning after December 31, 1974, would be zero. However, subject to the rules stated in this section, section 21 does not apply to the imposition of a new tax. For example, if a new tax is imposed for taxable years beginning on or after July 1, 1972, a computation under section 21 would not be required with respect to such new tax in the case of taxable years beginning before July 1, 1972, and ending on or after that date. If the effective date of the imposition of a new tax and the effective date of a change in rate of such tax fall in the same taxable year, section 21 is not applicable in computing the taxpayer's liability for such tax for such year unless the new tax is expressly imposed upon the taxpayer for a portion of his taxable year prior to the change in rate.

(e) If a husband and wife have different taxable years because of the death of either spouse, and if a joint return is filed with respect to the taxable year of each, then, for purposes of section 21, the joint return shall be treated as if the taxable years of both spouses ended on the date of the closing of the surviving spouse's taxable year. See section 6013 (c), relating to treatment of joint return after death of either spouse. Accordingly, if a change in the rate of tax is effective during the taxable year of the surviving spouse, the tentative taxes with respect to the joint return shall be computed on the basis of the number of days during which each rate of tax was in effect for the taxable year of the surviving spouse.

(f) Section 21 applies whether or not the taxpayer has a taxable year of less than 12 months. Moreover, section 21 applies whether or not the taxable income for a taxable year of less than 12 months is required to be placed on an annual basis under section 443. If the taxable income is required to be computed under section 443(b) then the tentative taxes under section 21 are computed as provided in paragraph (1) or (2) of section 443(b) and are reduced as provided in those paragraphs. The tentative taxes so computed and reduced are then apportioned as provided in section 21(a)(2) to determine the tax for

such taxable year as computed under section 21.

(g) If a taxpayer has made the election under section 441(f) (relating to computation of taxable income on the basis of an annual accounting period varying from 52 to 53 weeks), the rules provided in section 441(f)(2) shall be applicable for purposes of determining whether section 21 applies to the taxable year of the taxpayer. Where a taxpayer has made the election under section 441(f) and where section 21 applies to the taxable year of the taxpayer the computation under section 21(a)(2) shall be made upon the basis of the actual number of days in the taxable year and in each period thereof.

(h)(1) Section 21 is applicable only if the rate of tax imposed by chapter 1 changes. Sections in which rates of tax are specified or incorporated by reference include the following: 1, 2, 3, 11, 511, 531, 541, 821, 831, 871, 881, 1201, and 1348 (for taxable years beginning after December 31, 1970). Except as provided in subparagraph (3) of this paragraph, section 21 is not applicable with respect to changes in the law relating to deductions from gross income, exclusions from or inclusions in gross income, or other items taken into account in determining the amount or character of income subject to tax. Moreover, section 21 is not applicable with respect to changes in the law relating to credits against the tax or with respect to changes in the law relating to limitations on the amount of tax. Section 21 is applicable, however, to all those computations specified in the section providing the rate of tax which are implicit in determining the rate. For example, if one of the tax brackets in the tax tables under section 3 were to be changed, section 21 would be applicable to that change. Thus, if the bracket relating to "at least \$4,200 but not less than \$4,250" for heads of households should be changed to increase or decrease the last sum specified, with corresponding changes being made in subsequent brackets, section 21 would be applicable. The enactment of sections 1561 and 1562 is considered a change in section 11(d) which constitutes a change in rate for the period ending after December 31, 1963. The amendment of section 1561

and the repeal of section 1562 by the Tax Reform Act of 1969 is considered a change in section 11(d) which constitutes a change in rate for the period ending after December 31, 1974. The repeal of the 2 percent additional tax imposed under section 1503 on corporations filing consolidated returns constitutes a change in rate for the period ending after December 31, 1963. The addition to the Code of section 1348 (relating to 50 percent maximum rate on earned income) is a change in rate to which section 21(a) is applicable. The amendment of section 11(d) by the Tax Reduction Act of 1975 which increases to \$50,000 the surtax exemption for a taxable year ending during 1975 constitutes a change in rate for such portion of the taxable year (if less than the entire taxable year) as follows December 31, 1974. Similarly, the return of the surtax exemption to \$25,000 for a taxable year ending during 1976 constitutes a change in rate for such portion of the taxable year (if less than the entire taxable year) as follows December 31, 1975.

(2) Ordinarily, both the old and the new rates are applied to the same amount of taxable income. However, where the rate of tax is itself taken into account in determining taxable income (for example, the special deduction for Western Hemisphere trade corporations under section 922), the taxable income used in determining the tentative tax employing the rate before the effective date of change shall be determined by reference to that rate of tax, and the taxable income for the purpose of determining the tentative tax employing the rate for the period on and after the effective date of the change shall be determined by reference to the new tax rate.

(3) Section 21 is applicable with respect to changes in the law relating to the standard deduction for individuals provided in part IV of subchapter B and to the deduction for personal exemptions for individuals provided in part V of subchapter B.

(i) If the rate of tax changes more than once during the taxable year, section 21 is applicable to each change in rate. For example, if the rate of normal tax changed for taxable years beginning on or after March 1, 1954, and

changed again for taxable years beginning on or after June 1, 1954, section 21 requires computation of 3 tentative taxes for any taxable year which began before March 1, 1954, and ended on or after June 1, 1954: One tentative tax at the rate in effect before the March 1 change; another tentative tax at the rate in effect from March 1 to May 31; and a third tentative tax at the rate in effect from June 1 to the end of the taxable year. The proportion of each such tentative tax taken into account in determining the tax imposed on the taxpayer is computed by reference to the portion of the taxable year before March 1, 1954, by reference to the portion of the taxable year from March 1, 1954, through May 31, 1954, and by reference to the portion of the taxable year from June 1, 1954, to the end of the taxable year, respectively.

(j)(1) If a change in the rate of one tax imposed by chapter 1 of the Code does not affect the amount of other taxes imposed by chapter 1 of the Code the other taxes may be determined without regard to section 21 and section 21 will be applied only to the tax for which a change in rate is made. However, if the change of rate of one tax does affect the amount of other taxes imposed under chapter 1 of the Code, then the computation of the taxes under chapter 1 of the Code so affected shall be made by applying section 21. For example, if section 1201 applies to an individual taxpayer for a taxable year containing the effective date of a change in a rate of tax provided in section 1, then under section 21 the taxpayer must compute a tentative tax for each period for which a different rate of tax is effective under section 1. The tentative tax for each such period as computed under section 1201 will reflect the rate of tax provided by section 1 for such period.

(2) In certain cases chapter 1 of the Code provides that the particular tax to be imposed upon the taxpayer shall be one of several taxes, the basis of selection being the tax that is greater or lesser. See, for example, sections 821 and 1201. If in any such case the rate of any one of these taxes changes, then the tentative taxes computed as provided by section 21 for each period shall be computed employing the tax se-

lected in accordance with the general rule of selection for such a case, at the rate of tax in effect for such period. Thus, if a change in the rate of the alternative tax under section 1201 is such that the alternative tax under section 1201 is applicable if the old rate is used and is not applicable if the new rate is used, one tentative tax will consist of the alternative tax under section 1201 and the other tentative tax will consist of the tax imposed by the other applicable sections of chapter 1 of the Code. The two tentative taxes so computed are then prorated in accordance with section 21(a)(2) and the sum of the proportionate amounts is the tax imposed for the taxable year under chapter 1 of the Code. See the examples in paragraph (n) of this section.

(k) Section 21 does not apply in the following situations:

(1) The provisions of section 21 do not apply to the imposition of the tax surcharge by section 51. The proration rules of section 51(a) apply in the case of a taxable year ending on or after the effective date of the surcharge and beginning before July 1, 1970.

(2) The provisions of section 21 do not apply to the imposition of the minimum tax for tax preferences by section 56. The proration rules of section 301(c) of the Tax Reform Act of 1969 (83 Stat. 586) apply in the case of a taxable year beginning in 1969 and ending in 1970.

(l) In computing the number of days each rate of tax is in effect during the taxable year for purposes of section 21(a)(2), the effective date of the change in rate shall be counted in the period for which the new rate is in effect.

(m) Any credits against tax, and any limitation in any credit against tax, shall be based upon the tax computed under section 21. For credits against tax, see part IV (section 31 and following), subchapter A, chapter 1 of the Code.

(n) The application of section 21 may be illustrated by the following examples: (See also the examples in § 1.1561-2A(a)(3).)

Example 1. A, a married taxpayer filing a joint return, reports his income on the basis of a fiscal year ending June 30. For his fiscal year ending June 30, 1970, A reports taxable income (exclusive of capital gains and losses)

§ 1.21-1

26 CFR Ch. I (4-1-01 Edition)

of \$50,000 and net long-term capital gain (section 1201 gain (net capital gain for taxable years beginning after December 31, 1976)) of \$75,000. The rate of tax on capital gains under section 1201(b) relating to the alternative tax has been increased from 25 percent to a maximum rate of 29½ percent with respect to gain in excess of \$50,000 and the effective date of the change in rate is January 1, 1970. The income tax for the taxable year ended June 30, 1970, would be computed under section 21 as follows:

| TENTATIVE TAX | |
|--|----------------|
| Taxable income exclusive of capital gains and losses .. | \$50,000 |
| Long-term capital gain | 75,000 |
| | <u>125,000</u> |
| Deduct 50% of long-term capital gain ... | 37,500 |
| | <u>87,500</u> |
| Taxable income | 87,500 |
| Tax under section 1 (1969 and 1970 rates) | 37,690 |
| ALTERNATIVE TAX UNDER SECTION 1201(b) (1969 RATES) | |
| Taxable income (\$50,000+50% of \$75,000) | \$87,500 |
| Less 50% of long-term capital gain ... | 37,500 |
| | <u>50,000</u> |
| Taxable income exclusive of capital gains | 50,000 |
| Partial tax (tax on \$50,000) | 17,060 |
| Plus 25% of \$75,000 | 18,750 |
| | <u>35,810</u> |
| Alternative tax under section 1201(b) at 1969 rates | 35,810 |
| ALTERNATIVE TAX UNDER SECTION 1201(b) (1970 RATES) | |
| STEP I | |
| Taxable income (\$50,000 + 50% of \$75,000) | \$87,500 |
| Deduct 50% of net section 1201 gain (net capital gain for taxable years beginning after December 31, 1976) | 37,500 |
| | <u>50,000</u> |
| Tax on \$50,000 (taxable income exclusive of capital gains) | 17,060 |
| STEP II | |
| (a) Net section 1201 gain (net capital gain for taxable years beginning after December 31, 1976) | 75,000 |

| | |
|---|---------------|
| (b) Subsection (d) gain | 50,000 |
| 25% of \$50,000 (lessor of (a) or (b)) | 12,500 |
| STEP III | |
| (c) 29½% of \$25,000 (excess of (a) over (b)) | 7,375 |
| (d) Ordinary income 50% of net section 1201 gain (net capital gain for taxable years beginning after December 31, 1976) | 37,500 |
| | <u>87,500</u> |
| Tax on \$87,500 | \$37,690 |
| Ordinary income 50% of subsection (d) gain | 25,000 |
| | <u>75,000</u> |
| Tax on \$75,000 | 30,470 |
| Difference | 7,220 |
| Lesser of (c) or (d) ... | <u>7,220</u> |
| Alternative tax (total of 3 steps) at rates effective on and after January 1, 1970 | 36,780 |

Since the alternative tax is less than the tax imposed under section 1 for both the period in 1969 and the period in 1970, the alternative tax applies for both periods. Thus, since the effective date of the change in the rate of tax on capital gains is January 1, 1970, the old rate of alternative tax is effective for 184 days of the taxable year and the new rate of alternative tax is effective for 181 days of the taxable year. The alternative taxes are apportioned as follows:

| | |
|---|------------------|
| 1969—184/365 of \$35,810 | \$18,052.16 |
| 1970—181/365 of \$36,780 | 18,238.85 |
| | <u>36,291.01</u> |
| Tax surcharge (See § 1.51-1(d)(1)(i)) | 2,729.28 |
| Total tax for the taxable year | 39,020.29 |

Example 2. B, a single individual not a head of a household, has a taxable year ending March 31. For the taxable year ending March 31, 1971, B has adjusted gross income of \$18,500. His computation of the tax imposed is as follows:

| 1970 TENTATIVE TAX | | |
|-----------------------------|-------------|----------|
| Adjusted gross income | \$18,500.00 | |
| Less: | | |
| Standard deduction | \$1,000.00 | |
| Personal exemption | 625.00 | 1,625.00 |

Internal Revenue Service, Treasury

\$ 1.21-1

| | | |
|---|-------------|----------|
| Taxable income under 1970 deduction provisions | 16,875.00 | |
| Tax on \$16,875 (1970 rates): | | |
| Tax on first \$16,000 | 4,330.00 | |
| 42 percent of \$875 | 367.50 | |
| Tentative tax at rates and deduction provisions effective on or after January 1, 1970 | 4,697.50 | |
| 1971 TENTATIVE TAX | | |
| Adjusted gross income | \$18,500.00 | |
| Less: | | |
| Standard deduction | \$1,500 | |
| Personal exemption | 650 | 2,150.00 |
| Taxable income under 1971 deduction provisions | 16,350.00 | |
| Tax on \$16,350 (1971 rates): | | |
| Tax on first \$16,000 | 3,830 | |
| 34 percent of \$350 | 119 | |
| Tentative tax at rates and deduction provisions effective on or after January 1, 1971 | 3,949.00 | |
| The 1970 and 1971 tentative taxes are apportioned as follows: | | |
| 1970—275/365 of \$4,697.50 .. | 3,539.21 | |
| 1971—90/365 of \$3,949.00 | 973.73 | |
| | 4,512.94 | |
| Tax surcharge (see § 1.51-1(d)(1)(i)) | 56.26 | |
| Total tax for the taxable year | 4,569.20 | |

Example 3. H and W, husband and wife, have a foster child, C, who qualifies as a dependent under section 152(b)(2) for the period beginning after December 31, 1969. H and W file a joint return on the basis of a taxable year ending August 31. For the taxable year ending August 31, 1970, H and W have adjusted gross income of \$12,500. Their computation of the tax imposed is as follows:

| | | |
|---|-------------|----------|
| 1969 TENTATIVE TAX | | |
| Adjusted gross income | \$12,500.00 | |
| Less: | | |
| Standard deduction | \$1,000.00 | |
| Personal exemption (2) ... | 1,200.00 | 2,200.00 |
| Taxable income under 1969 deduction provisions | 10,300.00 | |
| Taxable income reduced by one-half | | 5,150.00 |
| Tax on \$5,150 (1969 rates): | | |
| Tax on first \$4,000 | \$690.00 | |
| 22 percent of \$1,150 | 253.00 | 943.00 |
| Twice the tax on \$5,150 | \$1,886.00 | |
| Tentative tax at rates and deduction provisions effective on or after January 1, 1969 | 1,886.00 | |
| 1970 TENTATIVE TAX | | |
| Adjusted gross income | \$12,500.00 | |
| Less: | | |
| Standard deduction | \$1,000.00 | |

| | | |
|---|------------|----------|
| Personal exemption (3) ... | 1,875.00 | 2,875.00 |
| Taxable income under 1970 deduction provisions | \$9,625.00 | |
| Tax on \$9,625 (1970 rates): | | |
| Tax on first \$8,000 | \$1,380.00 | |
| 22 percent of \$1,625 | 357.50 | |
| Tentative tax at rates and deduction provisions effective on or after January 1, 1970 | 1,737.50 | |
| The 1969 and 1970 tentative taxes are apportioned as follows: | | |
| 1969—122/365 of \$1,886 | \$630.39 | |
| 1970—243/365 of \$1,737.50 .. | 1,156.75 | |
| | 1,787.14 | |
| Tax surcharge (see § 1.51-1(d)(1)(i)) | 104.05 | |
| Total tax for the taxable year | 1,891.19 | |

Example 4. B, a single individual with one exemption, reports his income on the basis of a fiscal year ending June 30. For fiscal year ending June 30, 1971, B reports adjusted gross income of \$250,000, consisting of earned net income of \$240,000 and investment income of \$10,000. In addition, on April 24, 1971, stock was transferred to B pursuant to his exercise of a qualified stock option, and the fair market value of such stock at that time exceeded the option price by \$175,000. This \$175,000 constitutes an item of tax preference described in section 57(a)(6). B claims itemized deductions in the amount of \$34,000. By reason of section 1348, the maximum rate of tax on earned taxable income for a taxable year beginning after 1970 but before 1972 is 60 percent. The income tax for the taxable year ending June 30, 1971, would be computed under section 21 as follows:

| | | |
|---|--------------|------------|
| 1970 TENTATIVE TAX | | |
| Adjusted gross income | \$250,000.00 | |
| Less: | | |
| Itemized deductions | \$34,000.00 | |
| Personal exemption | 625.00 | 34,625.00 |
| Taxable income under 1970 deduction provisions | 215,375.00 | |
| Tax on \$215,375 (1970 rates) | | |
| Tax on first \$100,000 | \$55,490.00 | |
| 70 percent of \$115,375 | 80,762.50 | |
| Tentative tax at rates and deduction provisions effective on or after January 1, 1970 | 136,252.50 | |
| Minimum tax: | | |
| Total tax preference items | 175,000.00 | |
| Less: | | |
| Exemption | \$30,000.00 | |
| Income tax | 136,252.50 | 166,252.50 |
| Subject to 10 percent tax .. | 8,747.50 | |

§ 1.21-1

| | | |
|--|--------------|------------|
| 10 percent tax | 874.75 | |
| Total tentative tax (\$136,252.50 + \$874.75) | 137,127.25 | |
| 1971 TENTATIVE TAX | | |
| Adjusted gross income | \$250,000.00 | |
| Less: | | |
| Itemized deductions | \$34,000.00 | |
| Personal exemption | 650.00 | 34,650.00 |
| Taxable income under 1971 deduction provi- sions | 215,350.00 | |
| (a) Tax on highest amount of taxable income on which rate does not ex- ceed 60 percent (\$50,000) (1971 rates) ... | 20,190.00 | |
| (b) Earned taxable income: (\$215,350 × \$240,000/ \$250,000) | \$206,736.00 | |
| Less: Tax preference offset: (\$175,000 - \$30,000) | 145,000.00 | |
| | 61,736.00 | |
| (c) 60% of the amount by which \$61,736 exceeds \$50,000 | 7,041.60 | |
| (d) Tax on \$215,350 (1971 rates) Tax on first \$100,000 | 53,090.00 | |
| 70% of \$115,350 | 80,745.00 | |
| Total | 133,835.00 | |
| (e) Tax on \$61,736 (1971 rates) Tax on first \$60,000 | 26,390.00 | |
| 64% of \$1,736 | 1,111.04 | |
| Total | 27,501.04 | |
| (f) Excess of \$133,835 over \$27,501.04 | 106,333.96 | |
| Tentative tax (total of Steps (a), (c), and (f)) at rates and deduction provisions effective on or after Janu- ary 1, 1971 | 133,565.56 | |
| Minimum tax: | | |
| Total tax preference items | 175,000.00 | |
| Less: | | |
| Exemption | \$30,000.00 | |
| Income tax | 133,565.56 | 163,565.56 |
| Subject to 10 percent tax | \$11,434.44 | |
| 10 percent tax | 1,143.44 | |
| Total tentative tax (\$133,565.56 + \$1,143.44) | 134,709.00 | |

26 CFR Ch. I (4-1-01 Edition)

The 1970 and 1971 ten-
tative taxes are appor-
tioned as follows:

| | |
|---|------------|
| 1970—184/365 of \$137,127.25 | 69,127.16 |
| 1971—181/365 of \$134,709 | 66,800.90 |
| Total tax for the tax- able year | 135,928.06 |

Example 5. The surtax exemption of corporation M (one of 4 subsidiary corporations of W corporation), which files its income tax returns on the basis of a fiscal year ending March 31, 1964, is less than \$25,000, by reason of section 1561 of the Code applicable to taxable years ending after December 31, 1963, and beginning before January 1, 1975. The taxable income of corporation M is \$100,000, and the amount of the surtax exemption determined under the new rule for the 1964 taxable year is \$5,000 (\$25,000÷5). M's income tax liability for the taxable year ending March 31, 1964, is computed as follows:

| | |
|--|-----------|
| 1963 TENTATIVE TAX | |
| Taxable income | \$100,000 |
| Normal tax on \$100,000 (1963 rates) 30 percent of \$100,000 | \$30,000 |
| Surtax on \$75,000 (1963 rates and \$25,000 surtax exemption) 22 percent of \$75,000 | 16,500 |
| Total tentative tax at rates and surtax exemption effec- tive before Janu- ary 1, 1964 | 46,500 |
| 1964 TENTATIVE TAX | |
| Taxable income | \$100,000 |
| Normal tax on \$100,000 (1964 rates) 22 percent of \$100,000 | \$22,000 |
| Surtax on \$95,000 (1964 rates and a \$5,000 sur- tax exemption) 28 per- cent of \$95,000 | 26,600 |
| Total tentative tax at rates and surtax exemption effec- tive after January 1, 1964 | 48,600 |
| The 1963 and 1964 ten- tative taxes are appor- tioned as follows: | |
| 1963—275/366 of \$46,500 | 34,938.52 |
| 1964—91/366 of \$48,600 | 12,083.61 |
| Total tax for the tax- able year | 47,022.13 |

Internal Revenue Service, Treasury

§ 1.21-1

M has the same amount of taxable income in 1965. Its income tax liability for the fiscal year ending March 31, 1965, is computed as follows:

| 1964 TENTATIVE TAX | |
|---|-------------|
| Taxable income | \$100,000 |
| Normal tax on \$100,000 (1964 rates) 22 percent of \$100,000 | \$22,000 |
| Surtax on \$95,000 (1964 rates and a \$5,000 surtax exemption) 28 percent of \$95,000 | 26,600 |
| Total tentative tax at the 1964 rates | 48,600 |
| 1965 TENTATIVE TAX | |
| Taxable income | \$100,000 |
| Normal tax on \$100,000 (1965 rates) 22 percent of \$100,000 | \$22,000 |
| Surtax on \$95,000 (1965 rates and a \$5,000 surtax exemption) 26 percent of \$95,000 | 24,700 |
| Total tentative tax at the 1965 rates | 46,700 |
| The 1964 and 1965 tentative taxes are apportioned as follows: | |
| 1964—275/365 of \$48,600 | \$36,616.44 |
| 1965—90/365 of \$46,700 | 11,515.07 |
| Total tax for the taxable year | 48,131.51 |

Example 6. Assume the same facts as in example (5), except that M elected the additional tax under section 1562 for its fiscal year ending March 31, 1964. M's tax liability is completed as follows:

| 1963 TENTATIVE TAX | |
|--|-----------|
| Taxable income | \$100,000 |
| Normal tax on \$100,000 (1963 rates) 30 percent of \$100,000 | \$30,000 |
| Surtax on \$75,000 (1963 rates and \$25,000 surtax exemption) 22 percent of \$75,000 | 16,500 |
| Total tentative tax at rates and surtax exemption effective before January 1, 1964 | 46,500 |
| 1964 TENTATIVE TAX | |
| Taxable income | \$100,000 |
| Normal tax on \$100,000 (1964 rates) 22 percent of \$100,000 | \$22,000 |
| Surtax on \$75,000 (1964 rates and \$25,000 surtax exemption) 28 percent of \$75,000 | 21,000 |

| | |
|--|-------|
| Additional tax on \$25,000 6 percent of \$25,000 | 1,500 |
|--|-------|

| | |
|---|--------|
| Total tentative tax at rates and surtax exemption effective on and after January 1, 1964 .. | 44,500 |
|---|--------|

| | |
|---|-------------|
| The 1963 and 1964 tentative taxes are apportioned as follows: | |
| 1963—275/365 of \$46,500 | \$34,938.52 |
| 1964—91/365 of \$44,500 | 11,064.21 |

| | |
|--------------------------------------|-----------|
| Total tax for the taxable year | 46,002.73 |
|--------------------------------------|-----------|

Example 7. Corporation N files its income tax returns on the basis of a fiscal year ending June 30. For its taxable year ending in 1976, the taxable income of N is \$100,000. N's income tax liability is determined for the period July 1, 1975, through December 31, 1975, by taking into account two rates of normal tax under section 11(b)(2) (A) and (B) and the increase to \$50,000 in the surtax exemption under section 11(d). For the period January 1, 1976, through June 30, 1976, N's income tax liability is determined by taking into account the single normal tax rate under section 11(b)(1) and the \$25,000 surtax exemption under section 11(d). N's tax liability for the taxable year ending June 30, 1976, is computed as follows:

| 1975 TENTATIVE TAX | |
|---|-----------|
| Taxable income | \$100,000 |
| Normal tax on \$100,000 (1975 rates) 20 percent of \$25,000 | \$5,000 |
| 22 percent of \$75,000 | 16,500 |
| Surtax on \$50,000 (1975 rates and \$50,000 surtax exemption) 26 percent of \$50,000 | 13,000 |
| Total tentative tax at rates and surtax exemption effective on and after January 1, 1975 .. | 34,500 |
| 1976 TENTATIVE TAX | |
| Taxable income | \$100,000 |
| Normal tax on \$100,000 (1976 rates) 22 percent of \$100,000 | \$22,000 |
| Surtax on \$75,000 (1976 rates and \$25,000 surtax exemption) 26 percent of \$75,000 | 19,500 |
| Total tentative tax at rates and surtax exemption effective on and after January 1, 1976 .. | 41,500 |

§ 1.23-1

The 1975 and 1976 tentative taxes are apportioned as follows:

| | |
|--------------------------------------|----------|
| 1975—184/366 of | |
| \$34,500 | \$17,344 |
| 1976—182/366 of | |
| \$41,500 | 20,637 |
| Total tax for the taxable year | 37,981 |

(Secs. 1561(a) (83 Stat. 599; 26 U.S.C. 1561(a)) of the Internal Revenue Code)

[T.D. 6500, 25 FR 11402, Nov. 26, 1960; 25 FR 14021, Dec. 31, 1960, as amended by T.D. 7164, 37 FR 4190, Feb. 29, 1972; T.D. 74-13, 41 FR 12639, Mar. 26, 1976; T.D. 7528, 42 FR 64694, Dec. 28, 1977; T.D. 7728, 45 FR 72651, Nov. 3, 1980]

§ 1.23-1 Residential energy credit.

(a) *General rule.* Section 23 or former section 44C provides a residential energy credit against the tax imposed by chapter 1 of the Internal Revenue Code. The credit is an amount equal to the individual's qualified energy conservation expenditures (set out in paragraph (b)) plus the individual's qualified renewable energy source expenditures (set out in paragraph (c)) for the taxable year. However, the credit is subject to the limitations described in paragraph (d) and the special rules contained in § 1.23-3. The credit is non-refundable (that is, the credit may not exceed an individual's tax liability for the taxable year). However, any unused credit may be carried over to succeeding years to the extent permitted under paragraph (e). Renters as well as owners of a dwelling unit may qualify for the credit. See § 1.23-3(h) for the rules relating to the allocation of the credit in the case of joint occupants of a dwelling unit.

(b) *Qualified energy conservation expenditures.* In the case of any dwelling unit, the qualified energy conservation expenditures are 15 percent of the energy conservation expenditures made by the taxpayer with respect to the dwelling unit during the taxable year, but not in excess of \$2,000 of such expenditures. See § 1.23-2(a) for the definition of energy conservation expenditures.

(c) *Qualified renewable energy source expenditures.* In the case of taxable years beginning after December 31, 1979, the qualified renewable energy source expenditures are 40 percent of

26 CFR Ch. I (4-1-01 Edition)

the renewable energy source expenditures made by the taxpayer during the taxable year (and before January 1, 1986) with respect to the dwelling units that do not exceed \$10,000. In the case of taxable years beginning before January 1, 1980, the qualified renewable energy source expenditures are the renewable energy source expenditures made by the taxpayer with respect to the dwelling unit during the taxable year, but not in excess of—

(1) 30 percent of the expenditures up to \$2,000, plus

(2) 20 percent of the expenditures over \$2,000, but not more than \$10,000.

See § 1.23-2(b) for the definition of renewable energy source expenditures.

(d) *Limitations—(1) Minimum dollar amount.* No residential energy credit shall be allowed with respect to any return (whether joint or separate) for any taxable year if the amount of the credit otherwise allowable (determined without regard to the tax liability limitation imposed by paragraph (d)(3) of this section) is less than \$10.

(2) *Prior expenditures taken into account—(i) In general.* For purposes of determining the credit for expenditures made during a taxable year, the taxpayer must reduce the maximum amount of allowable expenditures with respect to the dwelling until in computing qualified energy conservation expenditures (under paragraph (b)) or qualified renewable energy conservation expenditures (under paragraph (c)) by prior expenditures which were made by the taxpayer or by joint occupants (see § 1.23-3(h)) with respect to the same dwelling unit, and which were taken into account in computing the credit for prior taxable years. In the case of expenditures made during taxable years beginning before January 1, 1980, the reduction of the maximum amount under paragraph (c) must first be made with respect to the first \$2,000 of expenditures (to which a 30 percent rate applies) and then with respect to the next \$8,000 of expenditures (to which a 20 percent rate applies). This reduction must be made if all or any part of the credit was allowed in or was carried over from a prior taxable year.

(ii) *Change of principal residence.* A taxpayer is eligible for the maximum credit for qualifying expenditures made